



## महाराष्ट्र शासन राजपत्र असाधारण भाग पाच-अ

वर्ष २, अंक २३(२)]

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असाधारण क्रमांक ४४

प्राधिकृत प्रकाशन

महाराष्ट्र विधानसभेत व महाराष्ट्र विधानपरिषदेत सादर केलेली विधेयके (इंग्रजी अनुवाद).

MAHARASHTRA LEGISLATURE SECRETARIAT

The following Bill was introduced in the Maharashtra Legislative Assembly on the **13<sup>th</sup> December, 2016**, is published under the Rule **117** of the Maharashtra Legislative Assembly Rules.

### L. A. BILL No. LIV OF 2016.

#### A BILL

*to amend the Maharashtra Unaided Private Professional Educational Institutions (Regulation of Admissions and Fees) Act, 2015.*

Mah.  
XXVIII  
of 2015.

WHEREAS it is expedient to amend the Maharashtra Unaided Private Professional Educational Institutions (Regulation of Admissions and Fees) Act, 2015, for the purposes hereinafter appearing; it is hereby enacted in the Sixty-seventh Year of the Republic of India as follows :-

**1.** This Act may be called the Maharashtra Unaided Private Professional Educational Institutions (Regulation of Admissions and Fees) (Amendment) Act, 2016. Short title.

Amendment in long title of Mah. XXVIII of 2015. **2.** In long title of the principal Act, after the words "Educational Institutions" the brackets and words "(including unaided Deemed University)" shall be inserted.

Amendment in Preamble of Mah. XXVIII of 2015. **3.** In the Preamble of the Maharashtra Unaided Private Professional Educational Institutions (Regulation of Admissions and Fees) Act, 2015 (hereinafter referred to as "the principal Act"), after the words "Educational Institutions" the brackets and words "(including unaided Deemed University)" shall be inserted.

Mah. XXVIII of 2015.

Amendment of section 2 of Mah. XXVIII of 2015.

**4.** In section 2 of the principal Act,-

(1) for clause (d), the following clause shall be substituted, namely :-

"(d) "Common Entrance Test (CET)" means the entrance test conducted by the Competent Authority or by the Authorities appointed by the Central Government, which the State Government may choose to apply for the purpose of determination of merit of the candidates for Centralized Admission Process (CAP) seeking admission to Professional Education in the State of Maharashtra;"

(2) for clause (e), the following clause shall be substituted, namely :-

"(e) "Competent Authority" means the State Common Entrance Test Cell constituted under section 10 of the Act for the admissions into the Government and Private Professional Educational Institutions;"

(3) for clause (f), the following clause shall be substituted, namely :-

"(f) "Director" means the Director of Higher Education or, of Technical Education or, of Medical Education and Research or, of AYUSH or, of any other Directorate or Commissioner of any Commissionerate of the State Government, concerned with Professional Education;"

(4) after clause (f), the following clause shall be inserted, namely:-

"(f1) "Domicile" means continuous residence in the State of Maharashtra for a minimum period as so declared by the State Government and the term "Domicile Certificate" shall accordingly mean the certificate showing status of domicile of a person, which is issued by the authority competent in the State of Maharashtra;"

(5) clause (k), shall be deleted;

(6) for clause (m), the following clause shall be substituted, namely:-

"(m) "Minority Educational Institution" means a Private Professional Educational Institution, whether based on religion or language, established for and administered by the persons belonging to the minority community, domiciled in the State of Maharashtra, having right to do so under clause (1) of article 30 of the Constitution of India;"

(7) for clause (o), the following clause shall be substituted, namely:-

"(o) "Overseas Citizen of India (OCI)" means a person registered as an Overseas Citizen of India under section 7A of the Citizenship Act, 1955, and includes Persons of Indian Origin who shall be deemed to be Overseas Citizen of India by virtue of Notification issued by the Ministry of Home Affairs, Government of India, from time to time;"

57 of 1955.

(8) for clause (q), the following clause shall be substituted, namely:-

"(q) "Private Professional Educational Institution" means any college, school, institute, institution or other body, by whatever name called, including unaided institution declared to be a deemed university under the University Grants Commission Act, 1956; and imparting any professional course or courses approved or recognized by the appropriate authority and affiliated to any university in the State of Maharashtra, but shall not include,—

(i) any such institution established, maintained or administered by the Central Government, any State Government or any local authority; or

(ii) a private university to which the provisions of the University Grants Commission (Establishment and Maintenance of Private Universities) Regulations, 2003, are applicable;"

5. In section 3 of the principal Act,—

(1) in sub-section (1), for the word "at" the word "in" shall be substituted;

(2) for sub-section (2), the following sub-section shall be substituted, namely:-

"(2) No student shall be admitted to any Professional Course in a Private Professional Educational Institution, either through Centralised Admission Process or through the process carried out at the Institutional level for institutional quota, unless the student possesses such eligibility conditions and requirements for admission as may be notified by the Government under sub-section (1)."

Amendment of section 3 of Mah. XXVIII of 2015.

6. For section 4 of the principal Act, the following section shall be substituted, namely:—

Substitution of section 4 of Mah. XXVIII of 2015.

"4. (1) The admission to seats in Private Professional Educational Institution, excluding institutional quota declared by Government, from time to time, shall be made on the basis of merit by following the procedure of Common Entrance Test (CET) followed by Centralized Admission Process (CAP) conducted in the manner as may be prescribed by rules :

Manner of admission.

Provided that, the State Government may, by order, exempt any professional course from requirement of the Common Entrance Test (CET) for any academic year before commencement of the admission process thereto.

(2) The admission to the institutional quota shall be strictly on the basis of merit of Common Entrance Test (CET) as may be prescribed :

Provided that, the professional course which is exempted from the Common Entrance Test (CET), for any academic year under the proviso to sub-section (1), the institutional quota for such professional course shall be strictly on the basis of merit determined on the basis of marks obtained in qualifying examination or in the manner as may be prescribed.

(3) The entrance test conducted by the appropriate authority under any Central Act shall be applicable for seeking admission to such professional courses, as per the provisions of the said Central Act, rules and regulations made thereunder.

(4) The State Government may, by order, declare that any entrance test conducted by any appropriate authority shall be applicable for seeking admissions to any professional course.

(5) Admissions to professional courses which are either exempted from the Common Entrance Test (CET) by the Government under the proviso to sub-section (1) or the professional courses to which the entrance test is conducted by the appropriate authority, as specified in sub-sections (3) and (4) shall be carried out by the Competent Authority through the Centralized Admission Process (CAP), on merit determined on the basis of marks obtained in the entrance test or qualifying examination, as the case may be, and as prescribed.

(6) The Competent Authority shall supervise and guide the entire process of Common Entrance Test and the Centralized Admission, including the seats in institutional quota in such manner as it may specify with a view to ensuring that the process is fair, transparent, merit-based and non-exploitative."

Substitution of  
section 6 of  
Mah. XXVIII  
of 2015.

7. For section 6 of the principal Act, the following section shall be substituted, namely:-

Allocation and  
reservation of  
seats.

"6. (1) (a) The allocation of seats under different categories including for Maharashtra Domicile, Non-Resident Indian, Overseas Citizen of India (OCI) other than for reserved categories specified in clause (b), in an unaided institution, shall be as per the policy of the Government issued, from time to time.

(b) The allocation of seats for reserved categories in a unaided institution, not being a Minority Educational Institution, shall be in accordance with the Maharashtra Private Professional Educational Institutions (Reservation of Seats for Admission for Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes and Other Backward Classes) Act, 2006.

Mah.  
XXX of  
2006.

(2) In Minority Educational Institution, the admissions shall be made as per the policy of the State Government and not less than fifty-one per cent of the sanctioned intake shall be filled from minority students, belonging to the minority community to which the institution belongs, from within the State having Maharashtra Domicile, on the basis of inter-se-merit of the Common Entrance Test (CET) and through Centralized Admission Process (CAP):

Provided that, if any seat earmarked for the minority category in Minority Educational Institution remains vacant in an academic year or where the students leave the institution after selection, such unfilled seats shall be filled from the students belonging to the general category on the basis of merit of the Common Entrance Test (CET) conducted by the Competent Authority and through Centralized Admission Process (CAP):

Provided further that, if such institution fails to admit minimum fifty-one per cent of its sanctioned intake from the persons belonging to the concerned minority community for period of three consecutive years, the Competent Authority shall inform the State Government and the State Government may, after giving a reasonable opportunity of being heard to the Minority Educational Institution to represent its case for failure to admit the minimum percentage of students for three consecutive years, may decide to refer such institution for taking appropriate action by the National Minority Commission under the National Commission for Minority Educational Institutions Act, 2004."

2 of  
2005.

**8.** In section 7 of the principal Act, in the sub-section (3),-

Amendment of  
section 7 of  
Mah. XXVIII  
of 2015.

(1) for the clause (d), the following clause shall be substituted, namely:-

"(d) the Director of Medical Education and Research --Member";

(2) for the clause (h), the following clauses shall be substituted, namely:-

"(h) the Director of AYUSH of the Maharashtra State ---Member

(i) the Commissioner of State CET --- Member Secretary.".

**9.** In section 9 of the principal Act,-

Amendment of  
section 9 of  
Mah. XXVIII  
of 2015.

(1) in sub-section (1),—

(a) in clause (i), for the word "conducting" the word "supervision" shall be substituted;

(b) for the clause (iv), the following clause shall be substituted, namely:-

"(iv) On receipt of any written complaint from any stakeholder or *suo-motu*, may inquire into any irregularities or illegalities committed by the unaided institution in the matter of admission.";

(2) in sub-section (5),-

(a) after clause (i), the following clause shall be inserted, namely:-

"(ia) every Directorate and Commissionerate shall certify such admission approval proposal within two months from the date of submission by the concerned institution;"

(b) in clause (ii), for the words "two months" the words "fifteen days" shall be substituted;

(c) in clause (iii), the following proviso shall be added, namely:-

" Provided that, for academic year 2015-16, the said cut-off date of 31st January shall stand extended for three months from the commencement of the Maharashtra Unaided Private Professional Educational Institutions (Regulation of Admissions and Fees) (Amendment) Act, 2016;"

(d) after clause (vii), the following clause shall be added, namely:-

"(viii) The Admissions Regulating Authority may, for reasons to be recorded in writing, extend the time prescribed in this sub-section.".

**10.** In section 10 of the principal Act,-

Amendment of  
section 10 of  
Mah. XXVIII  
of 2015.

(1) for sub-section (3), the following sub-section shall be substituted, namely:-

"(3)(a) The Commissioner of State CET Cell shall be assisted by the concerned Director and Commissioner in the matter of holding of Common Entrance Test and Centralized Admission Process for the respective courses concerning their Directorate.

(b)The Commissioner of State CET shall also be assisted by the officers of the rank of Joint Director and Joint Commissioner of the Concerned Directorate and Commissionerate of the State Government, in the day to day administration related to their respective courses.";

(2) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) The Common Entrance Test and Centralized Admission Process shall be conducted by the Competent Authority.";

(3) for sub-section (6), the following sub-section shall be substituted, namely:-

"(6) The Common Entrance Test Cell shall have the powers to take all decisions in respect of, -

(a) conduct of the Common Entrance Test in a fair manner maintaining the required confidentiality. It shall also take all decisions pertaining to conduct of test, mode and pattern of test;

(b) appointment of paper setters, examiners, evaluators, moderators and persons for assignment of software development required for the conduct of test, evaluation and result processing, and also appoint persons or agency as service providers required for the conduct of the online or offline examination and shall undertake printing of various documents, etc;

(c) exercising financial powers for execution of all activities related to conduct of Common Entrance Test and Centralized Admission Process;

(d) adopting suitable procedure for procuring the confidential services pertaining to the Common Entrance Test and Centralized Admission Process;

(e) requisitioning the services of personnel working under the Directorate and Commissionerate concerned for conducting Common Entrance Test (CET) and Centralized Admission process (CAP).";

(4) for the sub-section (7), the following sub-section shall be substituted, namely:-

"(7) Admission to every seat shall be made on the basis of merit as mentioned in sections 4 and 6 of the Act."

Amendment of  
section 11 of  
Mah. XXVIII  
of 2015.

**11.** In section 11 of the principal Act, in sub-section (3),-

(1) for clause (f), the following clause shall be substituted, namely:-

"(f) the Director of Medical Education and Research -- Member" ;

(2) for clause (j), the following clauses shall be substituted, namely:-

"(j) the Director of AYUSH of the Maharashtra State --- Member

(k) the officer of the State Government not

below the rank of Joint Secretary --- Member Secretary."

Amendment of  
section 13 of  
Mah. XXVIII  
of 2015.

**12.** In section 13 of the principal Act,-

(1) in sub-section (1),-

(i) for the word "perform" the words "exercise such powers and perform" shall be substituted;

(ii) for clause (iii), the following clause shall be substituted, namely:—

"(iii) to undertake verification of infrastructure, facilities and amenities as claimed by the unaided institution in the fee proposal submitted to the authority, on complaint received or *suo-motu* ;";

(iii) for clause (v), the following clauses shall be substituted, namely:—

"(v) to inquire into any irregularities or illegalities committed by the unaided institution in the matter of fees on receipt of any written complaint from any stakeholder or *suo-motu*;



(vi) the Fees Regulating Authority shall take cognizance of any information, data or report prepared by the appropriate authority, State Government or by the affiliated University or the Maharashtra State Board of Technical Education or by the Directorate or Commissionerate concerned, in the matter of infrastructure, facilities and amenities pertaining to any unaided institution.";

(2) sub-section (2) shall be deleted;

(3) in sub-section (3), for the words "*Shulka Niyanttran Samiti*" the words "*Shikshan Shulka Samiti*" shall be substituted;

(4) for sub-section (5), the following sub-sections shall be substituted, namely:—

"(5) If, upon receipt of any complaint or otherwise, the Fees Regulating Authority may constitute an enquiry committee of officers or may direct the concerned Directorate or Commissionerate or the University or Maharashtra State Board of Technical Education, as the case may be, to verify the infrastructure facilities and amenities as claimed by the institute in the fee proposal on the basis of which the fee is determined by the Authority.

(6) The Fees Regulating Authority may prescribe different fee for students admitted in Institutional Quota, including in the Quota for Foreign National, Overseas Citizen of Indian (OCI) and Non-Resident Indian (NRI) categories."

**13.** In section 14 of the principal Act,—

Amendment of  
section 14 of  
Mah. XXVIII  
of 2015.

(1) in sub-section (1), for clause (f), the following clause shall be substituted, namely:—

"(f) the Fees Regulating Authority may, subject to prescribed rules, regulate its procedure regarding scrutiny of fee proposals and grievance redressal mechanism as it deem fit.";

(2) after sub-section (6), the following sub-sections shall be added, namely:—

"(7) The Fees Regulating Authority may for reasons to be recorded in writing, extend the time prescribed in this section.

(8) The Government may prescribe by rules for regulation of fees in unaided institutions."

**14.** In section 15 of the principal Act,—

Amendment of  
section 15 of  
Mah. XXVIII  
of 2015.

(1) in clause (iv), the words "proposed or" shall be deleted;

(2) in clause (xii), in sub-clause (a), for the words "filed by" the words "awarded to" shall be substituted.

**15.** In section 16 of the principal Act, in sub-section (2), in clause (i), for the word "process" the word "processing" shall be substituted.

Amendment of  
section 16 of  
Mah. XXVIII  
of 2015.

**16.** In section 20 of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely:—

Amendment of  
section 20 of  
Mah. XXVIII  
of 2015.

"(4) Notwithstanding anything contained in any law for the time being in force, if on receipt of complaint or upon deriving knowledge by the Fees Regulating Authority that the unaided institution has indulged in the act of profiteering or any such amount in excess of the fee approved by the Fees Regulating Authority, such amount shall be

returned to the concerned student within such time as may be specified in the order of the Fees Regulating Authority. In the event the unaided institution fails to refund the said amount, so ordered by the Fees Regulating Authority within the specified time, the said amount shall be recoverable by the affected student together with interest thereupon at the rate of eighteen per centum per annum:

Provided that, before passing any such order, the Fees Regulating Authority shall give reasonable opportunity to the unaided institution to represent its case before the Authority."



## STATEMENT OF OBJECTS AND REASONS

The Maharashtra Unaided Private Professional Educational Institutions (Regulation of Admissions and Fees) Act, 2015 (Mah. XXVIII of 2015) provides for regulation of admissions and fees of Unaided Private Professional Educational Institutions in the State of Maharashtra.

2. Many Unaided Private Professional Educational Institutions have challenged the said Act in the High Court and the Supreme Court. The Supreme Court in *Christian Medical College V/s Medical Council of India*, reported in (2014) 2 SCC 305, in *Modern Dental College and Research Centre V/s State of Madhya Pradesh*, reported in 2016 (7) SCC 353, dated the 2nd May 2016 and *State of Madhya Pradesh v/s. Jainarayan Chouksey and Ors.* dated the 22nd September 2016 has laid down principles for admission in Private Professional Educational Institutions. Accordingly, the uniform entrance examination *i.e.* NEET has been introduced from the Academic Year 2016-17 onwards. The University Grants Commission *vide* its letter dated the 15<sup>th</sup> September 2016 has also directed the admissions in the Deemed University shall be through Centralized Admission Process (CAP) conducted by the State Government.

3. In view of this and to make explicit provisions and removing the ambiguity in the provisions of the Act, the Government has decided to amend the said Act suitably. The salient features of the proposed amendments are as under,—

- (a) to apply the said Act to the Unaided Deemed University;
- (b) to add the definition of the term "domicile";
- (c) to modify the definition of the term "Persons of Indian Origin (PIO)" in accordance with the notification issued by the Ministry of Home, Government of India;
- (d) to make clear provisions regarding Minority Educational Institutions;
- (e) to add the Director of Medical Education and Research and Director of AYUSH of the State as Member of the Admissions Regulating Authority and fees Regulating Authority;
- (f) to extend the date for scrutiny of admission approval proposals for the academic year 2015-16;
- (g) to make clear provisions of State CET Cell so as to execute its powers and functions more effectively;
- (h) to provide the power of the Fees Regulating Authority to prescribe different fee for students admitted in institutional quota, including in the quota foreign national, Overseas Citizen of Indian (OCI) and Non-Resident Indian (NRI) quota.

4. The Bill seeks to achieve the above objectives.

Nagpur,  
Dated the 9<sup>th</sup> December, 2016.

VINOD TAWDE,  
Minister for Higher and  
Technical Education.

## MEMORANDUM REGARDING DELEGATED LEGISLATION.

The Bill involves the following proposals for delegation of legislative power, namely:—

*Clause 6.*—Under this clause, which seeks to substitute section 4 of the Maharashtra Unaided Private Professional Educational Institutions (Regulation of Admissions and Fees) Act, 2015,—

(a) in sub-section (1), power is taken to the State Government to prescribe by rules the manner of conducting the Common Entrance Test and Centralised Admission Process of admission to seats in Private Professional Educational Institution;

(b) in sub-section (2),—

(i) power is taken to the State Government to prescribe by rules, the merit for admission to institutional quota in Private Professional Educational Institution;

(ii) in the proviso, the power is taken to the State Government to prescribe by rules, the manner of admission in the institutional quota;

(c) in sub-section(5), power is taken to the Competent Authority to specify the manner to supervise and guide the entire process of Common Entrance Test and the Centralized Admission Process, including the seats in institutional quota.

*Clause 13.*— Under this clause, which seeks to amend section 14 of the said Act,—

(a) in sub-clause (1), it is proposed to substitute clause (f) of sub-section (1), power is taken to the Fees Regulating Authority to regulate its procedure regarding scrutiny of fee proposals and grievance redressal mechanism subject to prescribe rules;

(b) in sub-clause (2), it is proposed to add sub-section (8), power is taken to the State Government to prescribe by rules, for regulating of fees in unaided institutions.

2. The above-mentioned proposals for delegation of legislative power are of normal character.

**Vidhan Bhavan :**

Nagpur,

Dated the 13<sup>th</sup> December, 2016.

**Dr. ANANT KALSE,**

Principal Secretary,

Maharashtra Legislative Assembly.